IC 27-8-12

Chapter 12. Long Term Care Insurance

IC 27-8-12-1

"Applicant" defined

Sec. 1. As used in this chapter, "applicant" means:

(1) an individual who applies for long term care insurance through an individual insurance policy; or

(2) a prospective holder of a certificate issued under a group long term care insurance policy.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-2

"Certificate" defined

Sec. 2. As used in this chapter, "certificate" means a document issued to a member of the group covered under a group insurance policy, which policy has been delivered or issued for delivery in Indiana, to signify that the individual named in the certificate is covered under the policy.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-3

"Certificate holder" defined

Sec. 3. As used in this chapter, "certificate holder" means an individual to whom a certificate is issued.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-4

"Insurance policy" defined

Sec. 4. As used in this chapter, "insurance policy" means any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in Indiana by an insurer, a fraternal benefit society, a nonprofit corporation, a health maintenance organization (as defined in IC 27-13-1-19), a limited service health maintenance organization (as defined in IC 27-13-34-4), a preferred provider arrangement, or any other organization.

As added by P.L.275-1987, SEC.1. Amended by P.L.26-1994, SEC.16.

IC 27-8-12-4.5

"Long term care facility" defined

Sec. 4.5. As used in this chapter, "long term care facility" has the meaning set forth in IC 12-15-39.6-2.

As added by P.L.75-1994, SEC.9. Amended by P.L.24-1997, SEC.63.

IC 27-8-12-5

"Long term care insurance policy" defined

Sec. 5. (a) As used in this chapter, "long term care insurance policy" means an insurance policy providing coverage for at least twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis for one (1) or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care wing of a hospital.

(b) The term includes the following:

(1) A policy advertised, marketed, or offered as long term care insurance.

(2) A group or individual annuity, a life insurance policy, or riders that provide directly or supplement long term care insurance.

(3) A policy or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.

(c) The term does not include the following:

(1) An insurance policy that is offered primarily to provide basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, comprehensive coverage, catastrophic coverage, or limited benefit health coverage.

(2) A life insurance policy that accelerates the death benefit specifically for terminal illness, a medical condition requiring extraordinary medical intervention, or a permanent institutional confinement, and that provides the option of a lump sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long term care.

(3) An insurance policy that is offered primarily to provide basic Medicare supplemental coverage (as defined under IC 27-8-13).

As added by P.L.275-1987, SEC.1. Amended by P.L.114-1991, SEC.9.

IC 27-8-12-6

Compliance with statutory requirements

Sec. 6. An insurance policy may be marketed, advertised, offered, or sold in Indiana as long term care insurance only if that policy complies with the requirements of this chapter.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-7

Policy disclosure standards; marketing practices; continuing education; penalties; reporting practices; rules

Sec. 7. (a) The insurance commissioner shall adopt rules under IC 4-22-2 establishing standards of full and fair disclosure concerning long term care insurance policies. The standards must require disclosure of information concerning the following:

(1) The sale of the policies.

(2) Terms of renewability.

(3) Initial and subsequent terms of eligibility.

(4) Nonduplication of coverage provisions.
(5) Coverage of dependents.
(6) Preexisting conditions.
(7) Termination of insurance coverage.
(8) Probationary periods.
(9) Limitations on coverage.
(10) Exceptions to coverage.
(11) Reductions from coverage.
(12) Elimination periods.
(13) Requirements for replacement.
(14) Recurrent conditions.
(15) Definitions of terms.
(16) Continuation or conversion of coverage.

(b) The insurance commissioner shall adopt rules under IC 4-22-2 to establish minimum standards concerning:
(1) marketing practices;
(2) insurance producer continuing education;
(3) penalties; and
(4) reporting practices;
for long term care insurance.

(c) Rules adopted by the insurance commissioner under this section must:
(1) recognize the unique, developing, and experimental nature of long term care insurance; and
(2) where necessary or appropriate, recognize the distinctions between group insurance policies and individual insurance policies.

As added by P.L.275-1987, SEC.1. Amended by P.L.114-1991, SEC.10; P.L.178-2003, SEC.65.

IC 27-8-12-7.1
Qualification of long term care policies; rules

Sec. 7.1. The department of insurance shall adopt rules under IC 4-22-2 that establish standards for the qualification of a long term care policy under IC 12-15-39.6. The rules must include the following:
(1) The standards adopted under section 7 of this chapter.
(2) The requirement that an insurer or other person who issues a qualified long term care policy must at a minimum offer to each policyholder or prospective policyholder a policy that provides both:
(A) long term care facility coverage; and
(B) home and community care coverage.
(3) A provision that an insurer or other person who complies with subdivision (2) may elect to also offer a qualified long term care policy that provides only long term care facility coverage.
(4) The submission of data by insurers that will allow the department of insurance, the office of Medicaid policy and planning, and the division of disability, aging, and rehabilitative

services to administer the Indiana long term care program under IC 12-15-39.6.

(5) Other standards needed to administer the Indiana long term care program.

As added by P.L.114-1991, SEC.11. Amended by P.L.9-1991, SEC.94; P.L.2-1992, SEC.786; P.L.4-1993, SEC.260; P.L.5-1993, SEC.273; P.L.75-1994, SEC.10; P.L.24-1997, SEC.64.

IC 27-8-12-8

Loss ratio standards rule

Sec. 8. The insurance commissioner may not adopt a rule establishing loss ratio standards that apply to long term care insurance policies unless the rule exclusively concerns long term care insurance.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-9

Termination of policy on grounds of age or deteriorated health

Sec. 9. An insurer that issues a long term care insurance policy may not cancel, decline to renew, or otherwise terminate the policy solely on the grounds of the age or deterioration in mental or physical health of the insured individual or certificate holder.

As added by P.L.275-1987, SEC.1.

IC 27-8-12-10

"Preexisting condition" defined; exclusion of coverage; limitations

Sec. 10. (a) As used in this section, "preexisting condition" means the existence of:

(1) either:

(A) symptoms that would cause an ordinarily prudent person to seek diagnosis, care, or treatment; or

(B) a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services; within

(2) a period not to exceed either:

(A) twelve (12) months preceding the effective date of coverage of an insured person who is sixty-five (65) years of age or older on the effective date of coverage; or

(B) twenty-four (24) months preceding the effective date of coverage of an insured person who is less than sixty-five (65) years of age on the effective date of coverage.

(b) A long term care insurance policy may exclude coverage for a loss or confinement that is the result of a preexisting condition only if that loss or confinement begins within:

(1) twelve (12) months following the effective date of coverage of an insured person who is sixty-five (65) years of age or older on the effective date of coverage; or

(2) twenty-four (24) months following the effective date of coverage of an insured person who is under sixty-five (65) years of age on the effective date of coverage.

(c) The insurance commissioner may extend the limitation periods set forth in subsections (a)(2)(A), (a)(2)(B), and (b), concerning specific age group categories in specific policies upon a finding that the extension is in the best interest of the public.
As added by P.L.275-1987, SEC.1.

IC 27-8-12-10.5
Loss or confinement resulting from a preexisting condition; exclusion of coverage; limitation period; rules

Sec. 10.5. (a) As used in this section, "preexisting condition" means a condition for which medical advice or treatment was recommended by or received from a provider of health care services within six (6) months preceding the effective date of coverage of an insured individual.

(b) A long term care insurance policy may not use a definition of preexisting condition that is more restrictive than the definition contained in subsection (a).

(c) Except for a group long term care policy under IC 27-8-5-16(1) or IC 27-1-12-37, a long term care insurance policy may not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six (6) months following the effective date of coverage of an insured individual.

(d) The commissioner may extend the limitation period under subsections (a) and (c) concerning a specific age group category in a specific policy form upon a finding by the commissioner that the extension is in the best interest of the public.

(e) This section does not prohibit an insurer from doing any of the following:

(1) Using an application form designed to elicit the complete health history of an applicant.

(2) Based on an application, underwriting in accordance with the insurer's established underwriting standards.

(f) Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether the condition is disclosed on the application, need not be covered until after the waiting period described in subsection (c).

(g) A long term care insurance policy may not exclude or use a waiver or rider to exclude, limit, or reduce coverage or benefits for a specifically named or described preexisting disease or physical condition beyond the waiting period described in subsection (c).
As added by P.L.114-1991, SEC.12.

IC 27-8-12-10.6
Conditions on eligibility for benefits; restrictions

Sec. 10.6. (a) A long term care insurance policy may not be delivered or issued for delivery in Indiana if the policy:

(1) conditions eligibility for any benefits on a prior hospitalization requirement;

(2) conditions eligibility for benefits provided in an institutional

care setting on the receipt of a higher level of institutional care; or

(3) conditions eligibility for a benefit other than:

(A) a waiver of premium;

(B) postconfinement;

(C) postacute care; or

(D) recuperative benefits;

on a prior institutionalization requirement.

(b) A long term care insurance policy containing a postconfinement, postacute, or recuperative benefit must clearly label in a separate paragraph of the policy a statement entitled "limitations or conditions on eligibility for benefits". Under the statement, the policy must outline any limitations or conditions for benefits.

(c) A long term care insurance policy or rider that conditions eligibility of noninstitutional benefits on the prior receipt of institutional care must not require a prior institutional stay of more than thirty (30) days.

(d) A long term care insurance policy or rider that provides benefits only following institutionalization may not condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.

As added by P.L.114-1991, SEC.13.

IC 27-8-12-11

Establishment of new waiting period

Sec. 11. (a) A long term care insurance policy may not:

(1) contain a provision establishing a new waiting period if an existing policy is converted to or replaced by a new form issued by the same insurer, except in the case of an increase in benefits voluntarily selected by the insured individual or group policyholder;

(2) be canceled, nonrenewed, or otherwise terminated on the grounds of age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(3) provide coverage for skilled nursing care only; or

(4) provide significantly more coverage for skilled care than coverage for a lower level of care.

(b) Subsection (a) does not prohibit an insurer from voluntarily waiving any authorized waiting period.

As added by P.L.275-1987, SEC.1. Amended by P.L.114-1991, SEC.14.

IC 27-8-12-12

No obligation return period; notice

Sec. 12. (a) An individual long term care insurance policyholder may return the policy within thirty (30) days of its delivery and have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(b) Each individual long term care insurance policy must have prominently printed on, or attached to, its first page a notice setting forth in substance the provisions of subsection (a).
As added by P.L.275-1987, SEC.1. Amended by P.L.114-1991, SEC.15.

IC 27-8-12-13
Direct response solicitation-issued policies; no obligation return period; notice

Sec. 13. (a) A person insured under a long term care insurance policy or certificate issued under a direct response solicitation may return the policy or certificate within thirty (30) days of its delivery and have the premium refunded if the insured person is not satisfied for any reason.

(b) Each long term care insurance policy or certificate issued under a direct response solicitation must have printed on, or attached to, its first page a notice setting forth in substance the provisions of subsection (a).
As added by P.L.275-1987, SEC.1.

IC 27-8-12-14
Outline of coverage; contents

Sec. 14. (a) The insurer shall deliver an outline of the coverage provided by an individual long term care insurance policy to the prospective applicant at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and the document's purpose.

(b) The commissioner shall prescribe a standard format regarding:
(1) style;
(2) arrangement;
(3) overall appearance; and
(4) content;
for an outline of coverage.

(c) An insurance producer who solicits a long term care insurance policy shall deliver the outline of coverage before the presentation of an application or enrollment form.

(d) The outline of coverage must be presented in conjunction with any application or enrollment form when there is a direct response solicitation of long term care insurance.

(e) An outline of coverage required under this section must include the following:
(1) A description of the principal benefits and coverage provided in the policy.
(2) A statement of the principal exclusions, reductions, and limitations set forth in the policy.
(3) A statement of the policy's renewal provisions, including any reservation by the insurer of a right to change premiums.
(4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine the exact terms of the coverage provided

by the policy.

(5) A description of the terms under which the policy may be returned and the premium refunded.

(6) A brief description of the relationship of the cost of care and benefits.

(7) A statement of the terms under which the policy or certificate may continue or be discontinued, including any reservation in the policy of the right to change the premium.

(8) A specific statement of the provisions for continuation or conversion of group coverage.

As added by P.L.275-1987, SEC.1. Amended by P.L.114-1991, SEC.16; P.L.178-2003, SEC.66.

IC 27-8-12-14.5

Policy summary; requirements

Sec. 14.5. (a) A policy summary shall be delivered, at the time of policy delivery, for an individual life insurance policy that provides long term care benefits within the policy or by a rider.

(b) The insurer shall deliver the policy summary upon the applicant's request when there is a direct response solicitation. If there is no request, the insurer shall deliver the policy summary not later than when the policy is delivered.

(c) The policy summary must include the following:

(1) An explanation of how long a long term care benefit interacts with other components of the policy, including deductions from a death benefit.

(2) An illustration of the amount of a benefit, the length of a benefit, and the guaranteed lifetime benefits for each covered person.

(3) Any exclusion, reduction, and limitation on benefits of long term care.

(d) A policy summary required under this section must also include the following information if applicable:

(1) A disclosure of any effect of exercising rights under the policy other than rights referred to in subsection (c).

(2) A disclosure of any guarantee related to long term care costs of insurance charges.

(3) Current and projected maximum lifetime benefits.

As added by P.L.114-1991, SEC.17.

IC 27-8-12-14.6

Benefits funded through life insurance by acceleration of death benefits; benefit payment status report; contents

Sec. 14.6. If a long term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report containing the following shall be provided to the policyholder:

(1) Any long term care benefit paid out during the month.

(2) An explanation of any change in the policy, including a change in death benefit or cash value due to long term care

benefits being paid.
(3) The amount of long term care benefits remaining under the policy.
As added by P.L.114-1991, SEC.18.

IC 27-8-12-15
Group policy certificate; contents
Sec. 15. A certificate issued under a group long term care insurance policy that is delivered or issued for delivery in Indiana must include the following:
(1) A description of the principal benefits and coverage provided in the policy.
(2) A statement of the principal exclusions, reductions, and limitations set forth in the policy.
(3) A statement that the group master policy should be consulted to determine the exact terms of the coverage provided by the policy.
As added by P.L.275-1987, SEC.1.

IC 27-8-12-16
Application of general insurance law
Sec. 16. All other applicable provisions of IC 27 not in conflict with the provisions of this chapter apply to insurance policies issued under this chapter. A long term care insurance policy issued under this chapter is not subject to any rule adopted under IC 27-1-3-7(c).
As added by P.L.275-1987, SEC.1.

IC 27-8-12-17
Group policies issued in another state; requirements
Sec. 17. Group long term care insurance may not be offered to a resident of Indiana under a group policy issued in another state unless the commissioner determines that the group long term care insurance policy substantially complies with insurance requirements similar to those established under this chapter.
As added by P.L.114-1991, SEC.19.

IC 27-8-12-18
Compensation of insurance producers; restrictions
Sec. 18. (a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:
(1) Bonuses.
(2) Gifts.
(3) Prizes.
(4) Awards.
(5) Finders fees.
(b) An insurer or other entity that provides a commission or other compensation to an insurance producer or other representative for the sale of a long term care insurance policy may not violate the

following conditions:

(1) The amount of the first year commission or first year compensation for selling or servicing the policy may not exceed two hundred percent (200%) of the amount of the commission or other compensation paid in the second year.

(2) The amount of commission or other compensation provided in years after the second year must be equal to the amount provided in the second year.

(3) A commission or other compensation must be provided each year for at least five (5) years after the first year.

(c) If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its insurance producer may not accept, compensation in an amount greater than the renewal compensation payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

(d) This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

As added by P.L.114-1991, SEC.20. Amended by P.L.178-2003, SEC.67.

IC 27-8-12-19

Violations; civil penalty; amount

Sec. 19. (a) In addition to any other sanction provided under this article, the commissioner may impose a civil penalty against an insurer who has violated this chapter or rules adopted under this chapter. A penalty imposed under this section must be the greater of:

(1) three (3) times the amount of the commissions paid for each policy involved in the violation; or

(2) ten thousand dollars ($10,000).

(b) In addition to any other sanction provided under this title, the commissioner may impose a penalty against an insurance producer who has violated this chapter or rules adopted under this chapter. The penalty must be the greater of:

(1) up to three (3) times the amount of the commissions paid to that insurance producer for each policy involved in the violation; or

(2) twenty-five hundred dollars ($2,500).

As added by P.L.114-1991, SEC.21. Amended by P.L.178-2003, SEC.68.